

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ANTHONY WILSON,

Plaintiff,

-vs-

GENESEE COUNTY,

Defendant.

CASE NO. 06-CV-13111

PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

MONA K. MAJZOUN
UNITED STATES MAGISTRATE JUDGE

ORDER

**(1) HOLDING IN ABEYANCE THE MAGISTRATE JUDGE’S REPORT AND
RECOMMENDATION ON THE PARTIES’ CROSS-MOTIONS FOR SUMMARY
JUDGMENT; AND (2) REMANDING THE CASE TO THE MAGISTRATE JUDGE TO
DETERMINE THE POSSIBLE PRECLUSIVE EFFECTS OF PLAINTIFF’S PRIOR
STATE COURT ACTION ON PLAINTIFF’S INSTANT FEDERAL CLAIMS**

Before the Court is the Magistrate Judge’s May 4, 2007 Report and Recommendation on the parties’ cross-motions for summary judgment. (Doc. No. 42). The Magistrate Judge recommended that the Court deny both motions. Plaintiff Anthony Wilson (“Plaintiff”) filed Objections on May 10, 2007. (Doc. No. 44). Defendant Genesee County (“Defendant”) filed Objections on May 14, 2007. (Doc. No. 45). In this case, Plaintiff brings Title VII and 42 U.S.C. § 1981 claims.

Defendant’s February 14, 2007 Motion for Summary Judgment states that Plaintiff has pursued an Elliot-Larsen Civil Rights Act (“ELCRA”) claim in Genesee County Circuit Court. (Def. Br. 4 n. 2). Plaintiff state court claim apparently arose out of the same facts as Plaintiff’s instant federal claims. Defendant indicates that Genesee County Circuit Court Judge Farah

granted summary disposition to Defendant on February 5, 2007, on Plaintiff's near-identical complaint,

In light of the Supreme Court decision in *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U.S. 280 (2005), addressing the Rooker-Feldman doctrine, the Court hereby **HOLDS IN ABEYANCE** the Magistrate Judge's May 4, 2007 Report and Recommendation and **REMANDS** the case to the Magistrate Judge for a determination of the possible preclusive effects of Plaintiff's prior state court litigation on his ELCRA claims on his instant federal Title VII claims arising out of the same facts. The Magistrate Judge shall permit additional briefing from the parties on this issue.¹ The parties shall also produce a copy of the state court pleadings, filings, and disposition to the Magistrate Judge.

SO ORDERED.

s/Paul D. Borman
PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

Dated: June 8, 2007

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record by electronic means or U.S. Mail on June 8, 2007.

s/Denise Goodine
Case Manager

¹ The Court notes for the purposes of analogy the recent unpublished Sixth Circuit case *Apseloff v. Family Dollar Stores, Inc.*, No. 06-4200 (6th Cir. June 7, 2007) (unpublished). Although *Apseloff* relies upon Ohio state law, the Court offers the case as potentially instructive on the issues of res judicata as applied to the instant case.